

Decision No. 60947**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MARTIN A. ROTONDO and ERIC MacDONALD,)
 partners doing business as TONDO) Application No. 42292
 TRUCKING, for a certificate of public)
 convenience and necessity to operate)
 as a highway common carrier.)

Handler and Baker, by Daniel W. Baker,
 for applicant.

O P I N I O N

Martin A. Rotondo and Eric MacDonald, doing business as Tondo Trucking, are operating under permitted authority as a radial highway common carrier and a city carrier.

The applicants now request a certificate of public convenience and necessity pursuant to Sections 1063 and 1064 of the Public Utilities Code to authorize the transportation of general commodities, with certain exceptions, from San Francisco and Oakland to Richmond, Concord and San Jose.

A public hearing was held in San Mateo, California, on August 11, 1960, before Examiner Edward G. Fraser. No one appeared in protest to the authority requested.

The evidence shows that there has been considerable industrial growth in the area the applicants propose to serve. The applicants have customers who desire service into this area, and likewise they desire split pickups and split deliveries to be made therein.

The shipper witnesses who testified indicated that it would be beneficial to their respective companies to have applicants provide a regular service to the area described in Appendix A attached hereto.

The evidence further discloses that applicants are able to supply the extended service. They have adequate equipment, have had the necessary experience, and are financially sound.

Upon consideration of all of the evidence adduced herein, we find that public convenience and necessity require that the application be granted in the manner set forth in the ensuing order which will provide the applicants with the certificate of public convenience and necessity they have requested.

Applicants are hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

A public hearing having been held, and based upon the evidence adduced therein and the application and representations filed herein,

IT IS ORDERED:

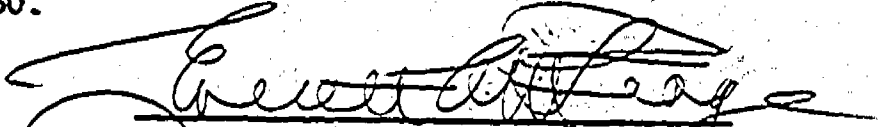
(1) That a certificate of public convenience and necessity is granted to Martin A. Rotondo and Eric MacDonald, copartners, doing business as Tondo Trucking, authorizing them to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A, attached hereto and made a part hereof.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

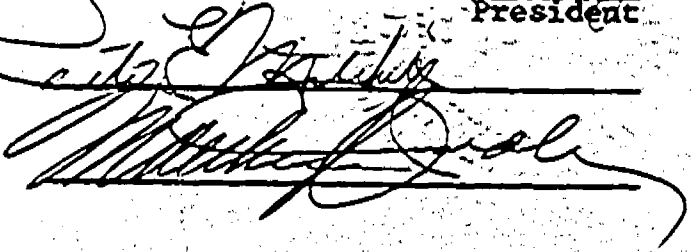
- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 25th day of OCTOBER, 1960.



 President



 Commissioner

Theodore H. Jenner
Commissioner S. C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.

Martin A. Rotondo and Eric MacDonald, by the certificate of public convenience and necessity granted in the decision noted in the margin, are authorized to transport general commodities between all points on and within five miles of the following routes:

1. State Highway 1 between San Francisco and Pacifica, inclusive;
2. U. S. Highways 101 and 101 By-Pass between San Francisco and San Jose, inclusive;
3. State Highway 9 between Oakland and Saratoga, inclusive;
4. State Highway 17 between Oakland and Los Gatos, inclusive;
5. Unnumbered highway between Saratoga and Los Gatos, inclusive;
6. U. S. Highway 40 between San Francisco and San Pablo, inclusive;
7. U. S. Highway 50 between San Francisco and Dublin, inclusive;
8. State Highway 24 between Oakland and Concord, inclusive;
9. State Highway 21 between Walnut Creek and Warm Springs, inclusive;
10. Between all points and places within 10 miles of San Jose, via all routes;
11. Via any and all routes between said points for operating convenience only.

Through routes and rates may be established between any and all points specified in subparagraphs 1 through 10 above.

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Applicants shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses; viz., new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Livestock; viz., bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.
5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Logs.
9. Fresh fruits and vegetables (not cold pack nor frozen).

End of Appendix A

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Decision No. 6094?, Application No. 42292.